

Internal Revenue Service, Treasury

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estimated tax that was due on December 15, 2009, in the amount of \$10,000. On January 4, 2010, X filed an application for adjustment of overpayment of estimated income tax for 2009 in the amount of \$20,000.

(ii) On February 16, 2010, the Internal Revenue Service, in response to the application, refunded \$20,000 to X. On March 15, 2010, X filed its 2009 tax return and made a payment in settlement of its total tax liability. Assuming that the addition to tax is computed under section 6621(a)(2) at a rate of 8% per annum for the applicable periods of underpayment, under section 6655(a), X is subject to an addition to tax in the amount of \$197 (90/365 X \$10,000 X 8%) on account of X's December 15, 2009, underpayment. Under section 6655(h), X is subject to an addition to tax in the amount of \$118 (27/365 X \$20,000 X 8%) on account of X's excessive adjustment under section 6425. In determining the amount of the addition to tax under section 6655(a) for failure to pay estimated income tax, the excessive adjustment under section 6425 is not taken into account.

(f) An adjustment is generally to be treated as a reduction of estimated income tax paid as of the date of the adjustment. However, for purposes of §§1.6655-1 through 1.6655-6, the adjustment is to be treated as if not made in determining whether there has been any underpayment of estimated income tax and, if there is an underpayment, the period during which the underpayment existed.

(g) *Effective/applicability date:* This section applies to taxable years beginning after September 6, 2007.

[T.D. 9347, 72 FR 44365, Aug. 7, 2007]

§ 1.6655(e)-1 Time and manner for making election under the Omnibus Budget Reconciliation Act of 1993.

(a) *Description.* Section 6655(e)(2)(C), as added by section 13225 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66, 107 Stat. 486), allows a corporate taxpayer to make an annual election to use a different annualization period to determine annualized income for purposes of paying any required installment of estimated income tax for a taxable year beginning after December 31, 1993.

(b) *Time and manner for making the election.* An election under section 6655(e)(2)(C) must be made on or before the date required for the payment of the first required installment for the taxable year. For a calendar or fiscal

year corporation, Form 8842, Election to Use Different Annualization Periods for Corporate Estimated Tax, must be filed by the 15th day of the 4th month of the taxable year for which the election is to apply. Form 8842 must be filed with the Internal Revenue Service Center where the corporation files its income tax return.

(c) *Revocability of election.* The election described in this section is irrevocable.

(d) *Effective date.* The rules set forth in this section are effective December 12, 1996.

[T.D. 8688, 61 FR 65322, Dec. 12, 1996]

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[T.D. 8381, 56 FR 67497, Dec. 31, 1991; T.D. 8381, 57 FR 6165, Feb. 20, 1992, as amended by T.D. 8519, 59 FR 4794, Feb. 2, 1994; T.D. 8533, 59 FR 12548, Mar. 17, 1994; T.D. 8551, 59 FR 35031, July 8, 1994; T.D. 8617, 60 FR 45663, Sept. 1, 1995; T.D. 8656, 61 FR 4879, Feb. 9, 1996; T.D. 8656, 61 FR 14248, Apr. 1, 1996; T.D. 8790, 63 FR 66434, Dec. 2, 1998; T.D. 9109, 68 FR 75127, Dec. 30, 2003]

§ 1.6662-1 Overview of the accuracy-related penalty.

Section 6662 imposes an accuracy-related penalty on any portion of an underpayment of tax required to be shown on a return that is attributable to one or more of the following:

- (a) Negligence or disregard of rules or regulations;
- (b) Any substantial understatement of income tax;
- (c) Any substantial valuation misstatement under chapter 1;

(d) Any substantial overstatement of pension liabilities; or

(e) Any substantial estate or gift tax valuation understatement.

Sections 1.6662-1 through 1.6662-5 address only the first three components of the accuracy-related penalty, *i.e.*, the penalties for negligence or disregard of rules or regulations, substantial understatements of income tax, and substantial (or gross) valuation misstatements under chapter 1. The penalties for disregard of rules or regulations and for a substantial understatement of income tax may be avoided by adequately disclosing certain information as provided in § 1.6662-3(c) and §§ 1.6662-4(e) and (f), respectively. The penalties for negligence and for a substantial (or gross) valuation misstatement under chapter 1 may not be avoided by disclosure. No accuracy-related penalty may be imposed on any portion of an underpayment if there was reasonable cause for, and the taxpayer acted in good faith with respect to, such portion. The reasonable cause and good faith exception to the accuracy-related penalty is set forth in § 1.6664-4.

[T.D. 8381, 56 FR 67498, Dec. 31, 1991, as amended by T.D. 8617, 60 FR 45664, Sept. 1, 1995]

§ 1.6662-2 Accuracy-related penalty.

(a) *In general.* Section 6662(a) imposes an accuracy-related penalty on any portion of an underpayment of tax (as defined in section 6664(a) and § 1.6664-2) required to be shown on a return if such portion is attributable to one or more of the following types of misconduct:

- (1) Negligence or disregard of rules or regulations (see § 1.6662-3);
- (2) Any substantial understatement of income tax (see § 1.6662-4); or
- (3) Any substantial (or gross) valuation misstatement under chapter 1 (“substantial valuation misstatement” or “gross valuation misstatement”), provided the applicable dollar limitation set forth in section 6662(e)(2) is satisfied (see § 1.6662-5).

The accuracy-related penalty applies only in cases in which a return of tax is filed, except that the penalty does